

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1358 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GAJJAR JAYESHKUMAR A

Versus

DIRECTOR

Appearance:

MR KB PUJARA for Petitioner

MR Hasurkar for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 20/07/98

ORAL JUDGEMENT

Rule.

Heard learned counsel for the parties. They say of the petitioner is that he was selected and appointed as Hamal-cum-packer (Class IV) in the year 1994. He passed English typing examination of Gujarat State Examination Board in May, 1996. He applied for promotion to the post of English Typist in June 1996. He further states that he appeared for typing test in August, 1996. He was directed by the, then Director Shri G.S. Bokhani to start functioning as English typist. He was also told orally that the formal procedure of promotion as English typist would be undertaken and he would be promoted and

paid salary of English typist with effect from 21.9.1996. The grievance of the petitioner is that till date no formal order of promotion as English typist has been passed despite the fact that he has been discharging the duties as English typist from 21.9.1996. He has now been directed by Mr. M.R. Megha to stop functioning as English typist at Gandhinagar office. He has also been asked to work as Hamal-cum-packer the post on which he has been appointed. The affidavit has been filed by Mr. D.K. Patel, in-charge Administrative Officer, C.M.S.O., Gandhinagar. It is stated that for promotion from Class IV post as per the statutory rules, which provides quota of 9:1 i.e. direct 9, promotee 1. It is not in dispute that he has not been appointed as English typist by following due procedure. Appointment in public service can be made only on merit and by inviting application. So far as the promotion is concerned, it is for the respondent to consider whether as per the quota provided the vacancies are to be filled in by way of promotion or not. As and when such decision is taken, the Departmental Promotion Committee shall be convened. In view of this to say that the petitioner is entitled to promotion is premature. The petitioner is not entitled to be promoted to the post of English typist simply because the outgoing director had created some hopes. The director has no authority to give such type of order. This Special Civil Application is rejected. Rule discharged. Interim relief stands vacated.

00000

pkn.